

**BEFORE THE ARIZONA STATE VETERINARY MEDICAL
EXAMINING BOARD**

IN THE MATTER OF:)	Case No.: 21-04
)	
BERNARD COHEN, DVM)	FINDINGS OF FACT,
Holder of License No. 1985)	CONCLUSIONS OF LAW
)	AND ORDER
)	
For the practice of Veterinary)	
Medicine in the State of Arizona,)	
)	
Respondent.)	

On March 17, 2021 and April 21, 2021, the Arizona State Veterinary Medical Examining Board conducted an Informal Interview regarding Bernard Cohen, DVM ("Respondent"). The proceedings in this matter are governed by A.R.S. § 32-2234 (A). Respondent was advised of his right to legal counsel by letter, appeared, and participated in the Informal Interview with counsel, David Stoll. The Board reviewed all documents submitted regarding this matter, took testimony from Respondent and Ms. Elizabeth Sommers, and proceeded as is permitted by A.R.S. § 32-2234 (A).

Following the Informal Interview and the Board's discussion of the information and documents submitted, the Board determined that Respondent's conduct constituted unprofessional conduct pursuant A.R.S. § 32-2232 (12) as it relates to A.A.C. R3-11-502 (C) for failure to provide the pet owner an estimate for veterinary services provided to the dog. After considering all of the information and testimony, the Board issues the following Findings of Fact, Conclusions of Law and Order, ("Order").

ORIGINAL

FINDINGS OF FACT

1. Respondent is the holder of License No. 1985 issued on July 16, 1990, and is therefore authorized to practice the profession of veterinary medicine in the State of Arizona.

2. Complainant provided Respondent an extensive history of her dog, "Skeeter," a 12+-year-old male Shepherd mix. The history including medical records from previous veterinarians when she lived in Minnesota. The dog had multiple surgeries related to removing mast cell tumors and other issues throughout the years. Complainant advised Respondent that she no longer wanted to pursue treatment of mast cell tumors due to the dog's age and quality of life issues.

3. On May 24, 2019, the dog was presented to Respondent due to having diarrhea. This was the dog's first appointment with Respondent; therefore, Complainant provided Respondent with a copy of the dog's previous medical records and discussed the dog's history. Complainant stated that Respondent was dismissive of her concerns for the dog's conditions and reactions to medications. According to Respondent, Complainant was not interested in pursuing any therapy for the systemic mast cell disease and not interested in hearing his opinion or advice. Respondent explained that any reaction he had during this appointment was due to total frustration from being told what he could or could not do. Prednisone therapy with or without histamines is indicated for systemic mast cell disease. Complainant's refusing to provide that therapy contributed to Respondent's and Complainant's disagreeing to what was best for the dog.

1 4. On this day, Complainant reported that she switched the dog's food a
2 week and a half ago. The dog had diarrhea; therefore, Complainant stopped
3 the new food and started ground beef, bland diet. Complainant was
4 concerned the dog now could be constipated – the previous day the dog
5 passed firm stool, then was loose. The dog was eating and drinking normal.
6 Upon exam, the dog had a weight = 58.8 pounds, a temperature = 101.3
7 degrees, a heart rate = 100bpm, and a respiration rate = 40rpm. Respondent
8 noted the dog's abdomen palpated ok and rectal exam revealed normal
9 stool. He further noted multiple small mast cell tumors on the dog's foreleg and
10 trunk; the dog was not on an antihistamine or prednisone.

11 5. No treatment was provided. No recommendations were noted in the
12 medical record.

13 6. On October 22, 2019, the dog was presented to Respondent to have ears
14 evaluated. Complainant reported that the dog's ears get itchy due to tiny,
15 course hairs in the dog's ear canal. This was a recurring problem that was
16 alleviated by having them removed whenever the dog was under anesthesia
17 in the past. According to Complainant, Respondent laughed and dismissed her
18 reasoning at why the dog was scratching his ears and suggested the dog had
19 allergies. Respondent further stated that Complainant was crazy if she thinks a
20 veterinarian would anesthetize a dog just to clean its ears.

21 7. Upon exam, the dog had a weight = 59 pounds, a temperature = 102
22 degrees, a heart rate = 108bpm and a respiration rate = 40rpm. Respondent
23 noted a few tiny hairs in the dog's ears, but no wax or exudate. He stated in his
24 narrative that he could not believe that those tiny hairs could contribute to the
25 dog's discomfort thus recommended topical therapy for allergies. Complainant

1 had otomax; therefore, Respondent recommended treating the dog's ears
2 with otomax once a week.

3 8. Complainant was concerned that Respondent dismissed her concerns
4 and the dog's previous history. She did not want the dog to be anesthetized to
5 have the hair in the ears removed as he had issues with recovery with the last
6 surgical procedures. Complainant was asking Respondent for suggestions to
7 help remove the ear hair without anesthesia. If in an emergency, the dog
8 required surgery, Complainant asked that butorphanol not be used as the dog
9 had a reaction to it in the past – they agreed that ketamine and midazolam
10 would be used instead.

11 9. On December 2, 2019, the dog was presented to Respondent due to
12 limping, having diarrhea, and vomiting. Complainant also reported the dog
13 had an elevated heart rate and labored breathing. Upon exam, the dog had a
14 weight = 57 pounds, a temperature = 102.7 degrees, a heart rate = 160bpm
15 and a respiration rate = 40rpm. Respondent noted that the dog's right hind leg
16 was very swollen and painful, thus radiographs were taken of the limb. There
17 was no bony involvement, only soft tissue swelling, therefore, Respondent
18 performed a fine needle aspirate to confirm the swelling was due to a mast cell
19 tumor. He and his associate confirmed mast cells were present. Respondent
20 administered the dog 3mLs of cerenia and 6mLs of unasyn IV. Complainant
21 declined submitting the slides for cytology and the dog was discharged with
22 Clavamox, gabapentin and prednisone.

23 10. Complainant expressed concerns that Respondent aspirated the mass
24 on the dog's leg and administered two medications without her consent and
25 without providing her with an estimate of fees. Additionally, Respondent

1 recommended referral to an oncologist and insisted Complainant give the dog
2 prednisone. Complainant advised Respondent that she explored those options
3 in the past and elected to not pursue due to the dog's age and quality of life
4 issues. Complainant requested Rimadyl, instead of gabapentin as the dog
5 tolerated Rimadyl well. Respondent refused as Rimadyl could not be given with
6 prednisone. Complainant stated that Respondent did not show her the
7 radiograph taken of the dog's leg.

8 11. That evening, Complainant gave the dog gabapentin. The dog was up
9 all night, whining, restless, disoriented, and unable to walk. Complainant
10 expressed concerns that Respondent did not warn her of the potential side
11 effects of gabapentin.

12 12. On December 3, 2020, Complainant called Respondent to report that
13 the mass on the dog's leg was swelling to the size of a football and that he
14 appeared to be having a negative reaction to the gabapentin. Respondent
15 stated that injecting a mast cell tumor will cause swelling – Complainant was
16 upset that Respondent did not warn her that could happen and aspirated the
17 mass without her permission. Complainant requested Rimadyl; Respondent
18 approved. Complainant picked up the Rimadyl later that day and requested a
19 copy of the dog's medical records at that time, which were provided to her.
20 Additionally, technical staff showed Complainant the dog's radiograph from
21 the previous day per Complainant's request. Complainant questioned if it was
22 a radiograph of the dog.

23 13. Later that day, the dog began to rapidly decline; therefore,
24 Complainant called Respondent's premises to request an appointment to
25 euthanize the dog. No appointments were available that day, the next day, or

1 later in the week according to Complainant. Complainant took the dog to
2 another veterinary facility that day for humane euthanasia.

3 CONCLUSIONS OF LAW

4 14. The Arizona State Veterinary Medical Examining Board has jurisdiction
5 over this matter pursuant to A.R.S. § 32-2201, et seq.

6 15. The conduct and circumstances described in the Findings of Fact above,
7 constitutes a violation of **A.R.S. § 32-2232 (12)** as it relates to **A.A.C. R3-11-502**
8 **(C)** for failure to provide the pet owner an estimate for veterinary services
9 provided to the dog.

10 ORDER

11 Based upon the foregoing Findings of Fact and Conclusions of Law it is
12 **ORDERED** that Respondent's License, No. 1985 be placed on **PROBATION** for a
13 period of one (1) year, subject to the following terms and conditions that shall
14 be completed within the Probationary period. These requirements include four
15 (4) total hours of continuing education (CE) detailed below:

16 1. **IT IS ORDERED THAT** Respondent shall provide written proof satisfactory to
17 the Board that he has completed four (4) hours of continuing education (CE);
18 hours earned in compliance with this order shall not be used for licensure
19 renewal. Respondent shall satisfy these four (4) hours by attending CE in the
20 area of medical record keeping, including providing estimates. Respondent
21 shall submit written verification of attendance to the Board for approval.

22 2. **All continuing education to be completed for this Order shall be pre-**
23 **approved by the Board.** Respondent shall submit to the Board a written outline
24 regarding how he plans to satisfy the requirements in paragraph 1 for its
25 approval within sixty (60) days of the effective date of this Order. The outline

1 shall include CE course details including, name, provider, date(s), hours of CE to
2 be earned, and a brief course summary.

3 3. Respondent shall obey all federal, state and local laws/rules governing
4 the practice of veterinary medicine in this state.

5 4. Respondent shall bear all costs of complying with this Order.

6 5. This Order is conclusive evidence of the matters described and may be
7 considered by the Board in determining an appropriate sanction in the event a
8 subsequent violation occurs. In the event Respondent violates any term of this
9 Order, the Board may, after opportunity for Informal Interview or Formal
10 Hearing, take any other appropriate disciplinary action authorized by law,
11 including suspension or revocation of Respondent's license.

12 13 **REHEARING/APPEAL RIGHTS**

14 Respondent has the right to petition for a rehearing or review of this Order.
15 Pursuant to A.R.S. § 32-2234 (H) and § 41-1092.09 the petition must be filed with
16 the Board within thirty-five (35) days from the date of mailing if the Order was
17 served via certified mail. Pursuant to A.A.C. R3-11-904 (C), the petition must set
18 forth legally sufficient reasons for granting the rehearing or review. The filing of
19 a petition for rehearing or review is required to preserve any rights of appeal to
20 the Superior Court that the party may wish to pursue.

21 This Order shall be effective and in force upon the expiration of the above
22 time period for filing a motion for rehearing or review with the Board. However,
23 the timely filing of a motion for rehearing or review shall stay the enforcement
24 of the Board's Order, unless, pursuant to A.A.C. R3-11-904 (F), the Board has
25

1 expressly found good cause to believe that this Order shall be effectively
2 immediately upon the issuance and has so stated in this Order.

3
4 Dated this 10th day of May, 2021.

5 Arizona State Veterinary Medical Examining Board
6 Jim Loughhead
7 Chairman

8 By: 
9 Victoria Whitmore, Executive Director

10
11 Original of the foregoing filed this 10th day of May, 2021
12 with the:

13 Arizona State Veterinary
14 Medical Examining Board
15 1740 W. Adams St., Ste. 4600
16 Phoenix, Arizona 85007

17 Copy of the foregoing sent by certified, return receipt mail
18 this 10th day of May, 2021 to:

19 Bernard Cohen, DVM
20 Address on file
21 Respondent

22 Copy of the foregoing sent by regular mail
23 this 10th day of May, 2021 to:

24 David Stoll, Esq.
25 Beaugureau, Hancock, Stoll and Schwartz, PC
302 E. Coronado Rd
Phoenix, Arizona 85004

By: 
Board Staff